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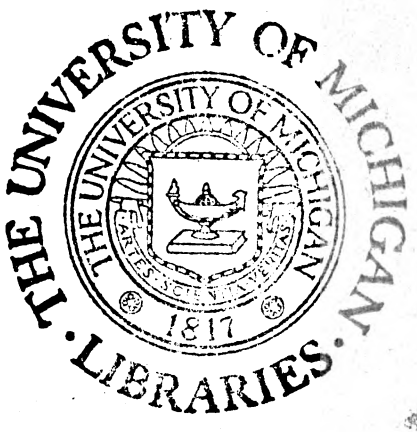

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MESSAGE

UNIV. OF MICH.
FEB 26 1908

OF THE

GOVERNOR

OF THE

STATE OF NEW YORK.

TRANSMITTED TO THE LEGISLATURE JANUARY 7, 1903.

ALBANY:
THE ARGUS COMPANY, PRINTERS
1903

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STATE OF NEW YORK.

No. 11.

IN SENATE,

JANUARY 7, 1903.

The Governor's Message.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,

ALBANY, N. Y., *January* 7, 1903.

To the Legislature:

No Legislature in recent years has had before it for consideration such important problems as you will be called upon to solve at the present session. Internal improvements, the abolition of direct taxation, the betterment of our common school system, and the popularization of the higher branches of education, are subjects meriting your most careful consideration, and the enactment of laws which will secure the best results with the least possible expenditure of the public money.

The State's debt is small, but if all the improvements which are under contemplation shall be approved by the people, it will be largely increased, and if left to a direct tax for liquida-

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tion will be so great as to materially add to the burdens of every locality. The aim of recent legislation has been to devise a uniform system of indirect taxation, and all of the changes in our revenue laws during the past twenty years have been in this direction, with the result that since the passage of the original corporation law in 1880, these receipts have grown from $141,127.03 to $16,236,446.99, which includes the special tax for judges and stenographers.

There is an impression that the benefits of indirect taxation have been secured at the expense of the larger centers of population. Nothing could be further from the truth than this, because it can be shown that if all such receipts were to go to the localities from which they come and recourse had to a direct tax for the moneys necessary for the State's maintenance, the amount collected from the larger localities would be considerably greater than under the present system. As an illustration of the truth of this statement, it may be cited that during the year ending September 30, 1902, of the total indirect receipts the city of New York contributed:

From transfers	$2,286,962 23
From excise receipts	2,782,082 87
From corporation taxes, including trust companies and savings banks	3,537,143 00
Total	$8,606,188 10

which is practically 56.6 per cent. of the total. In addition, New York paid this year in direct taxes $496,954.99, so that the gross

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cost to the city was $9,103,143.09. If the appropriations for the years 1902-3, amounting to $21,996,905.93, were raised entirely by direct taxation, New York city's proportion would be 67 per cent., which is its percentage of the total assessed valuation of the State, and it would be called upon to pay $14,736,926.97, or $5,633,783.88 more than it does to-day. Erie county paid $465,483.46, but two and nine-tenths per cent. of the indirect revenues, which added to its direct tax of $39,244.12 makes a total of $504,727.58; while its proportion of a direct tax, it having five and two-tenths per cent. of the assessed valuation, would be $1,143,839.10, or $639,111.52 more than under the present system. It may be claimed that inasmuch as the revenues are $5,760,458.94 short of the appropriations, to make a proper comparison the percentages of this deficiency should be deducted from the savings herein referred to, which in the case of New York would be $3,859,507.48, and Erie county $299,542.95; but even then the benefit of indirect taxation is shown in New York to be $1,774,276.40 and in the other case $339,568.57. In addition to this it must not be lost sight of that both Buffalo and Greater New York receive from the State moneys for school purposes, the former receiving for this year $195,567.78, or $156,323.64 more than it paid in direct taxes; while the latter receives $1,302,126.47, which is $805,171.48 greater than the amount of its direct contribution to the State. In addition to this the local treasury of New York has been benefited by $4,166,492.59, and Erie county by $654,641.31 by reason of increased revenues for the year 1902 from excise receipts over the last year of the operation of the old law. All this has been practically accomplished without any reduction in the assessment-rolls of the municipalities affected. So that

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from every standpoint of benefit it will be seen that these wise laws have not only enabled us to maintain the State with the least possible burden upon the localities, but that they have also greatly aided in meeting local expenses.

The total receipts into the State treasury, including the balance of $9,789,351.16 for the year ending September 30, 1902, were	$33,450,126 59
The total payments for all purposes	23,220,272 68
Leaving a balance of	$10,229,853 91

Divided among the various funds as follows:

Canal fund	$1,388,490 99
School fund	511,670 83
General fund	8,140,046 11
Trust and miscellaneous fund	189,645 98
	$10,229,853 91

The actual surplus, after deducting all appropriations made prior to January 1, 1902, was $8,001,346.56.

The total debt of the State is $9,920,660, of which $255,000 falls due during the current year.

The expense for educational purposes during the past year was $5,367,016.85. The amount for charitable purposes, including the care of the insane, was $5,451,817.32, and for betterments and buildings $1,351,944.83, making a total of $6,803,762.15.

I estimate the receipts from all indirect sources of taxation for the current year at $16,500,000, which added to the present surplus makes $24,501,346.56 as available balance, from which should be deducted the sum of $21,780,915.93, the amount

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of the appropriations made by the Legislature of 1902, exclusive of the special tax for stenographers and extra compensation for Supreme Court judges, leaving an estimated surplus on October 1, 1903, of $2,720,430.63.

The estimated indirect income for the year ending September 30, 1904, is $17,000,000; and assuming that the appropriations for that year are $23,000,000, there will be an apparent shortage of about $3,280,000, even though the entire surplus were used for the payment of appropriations. From these figures I estimate that new revenues amounting to $5,500,000 are necessary, and it becomes our first duty therefore to provide ways and means for this increase.

In imposing any additional taxation due regard must be had for the rights of individuals, corporations and the localities. It is a well-known fact that notwithstanding the constant reduction in the direct taxes of the State there has been a very great increase in local taxation, and therefore whatever is intended to increase the State's revenue should not be at the expense of increasing local burdens. It has always appeared to me to be dangerous to lodge power in any taxing officer which permits him to discriminate in the levying of assessments, and that the nearer therefore we can approach a system which has for its object a constant valuation, the nearer we are to a perfect system of taxation.

The Franchise Tax, which is still the subject of litigation, seems to me through the few years that it has been in operation to have demonstrated that it is inequitable, and a source of annoyance and constant litigation. Some corporations can bear this burden without serious results following. But as is well known, the continued increase of street railroad traffic and

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the demands for lighting, water, telephone and other public utility facilities have perhaps brought into existence many corporations which cannot bear the excessive burden which is now imposed under the present law.

Under the operation of the Franchise Tax Law it was sought to impose upon all those using streets and highways a greater tax for the privileges thus accorded. There is a great misconception, however, as to the results produced. A single corporation in the boroughs of Manhattan and the Bronx has seven-sixteenths of the total valuation of such properties in these two boroughs. This corporation is paying as much tax as many great railroad systems. By provisions of the law it is entitled to deductions because of car licenses and percentages paid to the city—at least so the law was interpreted until a recent decision of the court in a case in Buffalo, which held that such tax should not be deducted. The increase in receipts under this law upon the one hundred and sixty-seven millions of franchise valuations in Manhattan and the Bronx, after making all allowances for the tangible properties in the streets and the deductions ordered by the courts of one-third of the total assessment, are four hundred and thirty thousand dollars of new revenue. If this same proportion were carried out therefore in the city of New York it would mean an added revenue to the local treasury of $860,000. The State has accorded to every locality the power to enter into contracts for all franchises which may be granted, and it seemed to me at the time of the enactment of this measure that ample provision was possessed by the cities to properly guard and protect their interests and that to surrender therefore what should belong to the State to the municipalities — that is, franchise rights — was unneces-

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sarily giving away powers which should belong to and which are inherent in the State. With corporations as with individuals we should be fair, and while perhaps these corporations had not been paying the proportion which they should, still whatever is of value for a franchise should be paid for to the State, because it creates the corporation; while for the use of the streets there should be a direct contract between the company seeking such privileges and the municipality affected. I am of the opinion also that under the present law those who might desire to use the powers possessed for taxing purposes could do so to the great disadvantage of almost any corporation or with resultant unfairness to the municipalities affected. It seems to me, therefore, that the only safe and conservative way of assessing such corporations is upon their earning capacity, a plan which would not permit unfair discrimination. This would avoid many complications and would be a much safer system than the one now in operation.

The present method of mortgage taxation is unfair because it reaches only a small proportion of the whole, and permits an excessive tax. Whatever may be the reasoning as to the propriety or justice of imposing such a tax, the experience of other commonwealths has demonstrated beyond any question or doubt that the tax upon mortgages must be paid by the borrower and, therefore, to that extent it becomes double taxation. We must consider, however, the disinclination of local assessors to relieve those who loan money, upon the theory, in which there is much justice, that if mortgage taxation were entirely abolished a greater burden would be imposed upon real estate free from mortgage debt. This subject presents many peculiar conditions, and, while some hardships may be imposed, it is well

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for us to understand that it will be impossible to entirely relieve from the ultimate costs of borrowing those who are unfortunate enough to have their houses or lands burdened with mortgage. We have endeavored to protect the borrower, however, by fixing a maximum interest rate. The cheapness of money has reduced this rate, and whenever the lender of money is satisfied that his rate of interest will be as large as he can secure upon collaterals upon which no tax is due, he will loan upon real estate and millions of money that is now invested in other directions will immediately become available for investment in real estate mortgages. We may assume, therefore, that while it is impossible at the present time to entirely eliminate some form of taxation upon mortgages wherever found that we can still satisfy the localities by a more equitable distribution of the tax and thus bring about a lowering of the tax, with the natural sequence a lowering of the interest rate. Whatever tends to correct an abuse in part is in the direction of equity and justice, while not fully satisfying every demand. In view, therefore, of the failure to secure some such equitable form of mortgage taxation through the opposition of those who felt that their local assessment-rolls would be decreased and a greater burden of local taxation placed upon real estate, we should not attempt to correct the evil entirely because failure would again result. Whatever of injustice has been done, or whatever of inequality is apparent, can be well considered when the subject of indirect revenue is under consideration. And in framing new laws we can avoid errors which produce hardship by exacting unjust tribute. It appears to me, therefore, that in providing new revenues advantage should be taken of a more liberal mortgage

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tax and the reassumption of privileges which were surrendered to localities under the so-called Franchise Tax Law.

I recommend therefore that the rate of taxation upon mortgages shall not exceed four mills annually, and be in lieu of all other taxes, the mortgages to be assessed locally, two-thirds of the amount collected to go into the local treasuries and one-third to the State, excepting only from the operation of this law mortgages and bonds held by savings banks, fraternal orders, local building and loan associations, life insurance companies and charitable, religious and educational bodies. This law would produce as near as can be estimated eight millions of dollars annually, two-thirds of which, amounting to about $5,350,000, would go to the localities and $2,650,000 to the State. The local machinery for the collection of the tax will be much simpler than a State bureau because it will be the local registrar's and county clerk's offices that will furnish the desired information to each locality to determine its assessment, leaving to them the corrections and deductions which should be made. The constant fear that mortgages will be subject to excessive or varying rates of taxation will be thus eliminated and borrowers and lenders can negotiate their loans with a sure knowledge of the tax obligation.

Bonds of corporations, owing to the difficulty of reaching them for taxing purposes, can be left for assessment under existing law. The Franchise Tax Law should then be amended so that a tax could be assessed upon gross earnings, at double the present State tax, the revenue to be paid direct to the State, relieving public utility companies from local taxation, except upon tangible property in the streets, and other real and personal estate. This will operate much more equitably than does

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the present law, and will not be an unjust burden upon the corporations that are affected. I estimate that from the mortgage tax and the amended Franchise Tax Law the increased revenues will amount to $3,530,000. Whatever may be lost in the total of the assessments under the Franchise Tax Law can be more than replaced by the listing of mortgages, and would therefore increase rather than decrease the debt limit of municipalities for bond issues.

For further revenues I recommend a tax of ten cents on each notary certificate, which will produce $750,000, and a tax of ten cents per hundred dollars for the recording of all transfers of property, real or personal, to be known as a recording tax, which from the best available data at hand will produce $1,200,000 annually, making the total result $5,480,000 in new revenue. These recommendations, if enacted into law, will produce enough funds for the present and the constant increase of receipts under their operation will be sufficient to care for the increased expenditures of the State outside of canal improvement, and will thus redeem the pledge that has been made for entire relief from direct taxation for State purposes.

The enactment of these laws would take away from the localities franchise revenues of $1,325,000. Inasmuch as of the total assessed valuation of the personal property of the State, from the best estimates obtainable, there is only $135,000,000, in the hands of individuals, and assuming that all this represents mortgages and that the tax were two per cent., the localities would lose $2,700,000 by the abolition of the present mortgage tax, so that the total loss would be $4,025,000, while the new income from the mortgage tax would be $5,350,000. In other words, the localities would benefit by the enactment of these

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laws to the extent of $1,350,000, and it would still leave bonds and securities other than real estate mortgages held by individuals to be taxed locally.

I know that there may be perhaps a prejudice against the changes thus recommended, but we should not for that reason be deterred from according rights and protecting all interests equally so that unfair burdens may not be imposed. I believe when the subject is fully understood that the Legislature will reach the conclusion that the law as it stands to-day is unwise and against public policy. Stockholders are but individuals and they should have the same rights as owners of real estate or other forms of personal property.

The desire to maintain the commerce at the ports of New York and Buffalo, and the failure of canal transportation to adequately meet the demands of trade have led those who have given consideration to this subject to suggest a very material increase or enlargement of canal facilities. There is perhaps no subject which you will be called upon to consider that is fraught with so many difficulties, and the failure of every attempt in recent years to make canal traffic more effective should be a warning, and should preclude hasty conclusions as to the proper remedy to be applied.

That the Erie canal has performed an important work in the development of our State is not questioned. That it is the desire of all of the people that it should remain as a factor in the adjustment of freight rates is equally true. But as to the extent to which the State should go in the direction of improvement, there is a wide divergence of opinion. There has been, unfortunately, no policy in this matter which had the character of permanence. Neither the lowering nor the abolition of tolls

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upon the canals brought, as was hoped, an increase of traffic. On the contrary, there has been a gradual but certain decrease, both in tonnage and in the number of boats engaged in canal traffic. Under the present system, disregarding for the time being the factor of cost which the State in the nature of a subsidy grants, the fact is apparent although the per ton mile cost of canal transportation is but nineteen one-hundredths of a cent, while upon the railroads fifty-nine one-hundredths of a cent, that the railroads are increasing their traffic while the canal is gradually losing it. Why shippers are willing to pay this increased cost becomes therefore a proper subject for inquiry. Is it because of greater facilities and more prompt shipment at other outports that this decline in canal traffic is due? And will an enlarged canal win back the commerce which we have lost? It can be taken to be a certain and fixed conclusion that commerce will follow the line of least resistance, where the cost is lowest and where facilities for reloading freight for export are best. The inability to use the canal for at least five months of the year to my mind is first of all a serious consideration in competition with railroad transportation, which in addition to the terminal charges at New York and breaking of bulk at Buffalo seem to give to the railroads an advantage which should be thoroughly considered before an enlargement of the canal is authorized. Still lower freights seem to be the remedy which it is hoped may restore this inland commerce. This can be accomplished in one of two ways, either by greater speed upon the canal or increased carrying capacity of the boats. If it is possible to accomplish the desired results through either of the methods suggested, I am convinced that by reason of the decreased cost we can exact a

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toll which, while in no way interfering with the use of the canal, would assist in its maintenance and in the payment for the improvement. I have endeavored to give to this subject the consideration which its importance demands, and have heretofore expressed myself and now reaffirm my belief in the thousand-ton barge plan. I cannot urge too strongly upon the Legislature the necessity for immediate attention to this important problem, and while recommending that every consideration shall be given to the various interests involved, we should recollect that above every other claim the prosperity and upbuilding of our State are foremost. While giving all weight to the expense involved, we should not be deterred from any expenditure that will hold the supremacy of which we are all justly proud. I hope that the conclusion reached may be so supported by data and figures that there shall be no dissent from the deductions which are thus arrived at, and that the people may be put in possession of every detail that is necessary to enable them to speedily pass upon and express their approval or disapproval of the plans to be submitted.

In my last message I advocated the deepening of the canals to a nine-foot level, with locks capable and large enough to provide for one thousand-ton barge tonnage. To this subsequently suggestions were added that both the Oswego and the Champlain canals should be equally enlarged. This proposed measure failed of passage, I am convinced, because of an honest belief upon the part of many members of the Legislature that the plan proposed was inadequate to meet the requirements of commerce. At the time of the submission of the nine million dollar plan it was generally conceded by those interested in canal traffic that a nine-foot canal would be inadequate to meet

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all demands. The failure of that sum to complete the improvements, led to the appointment of a commission by my predecessor, which commission submitted a plan for the thousand ton barge canal, and to that project the commercial bodies of New York and Buffalo stand committed in the belief that no other remedy will produce the desired results, while the interior cities and others who are affected are as earnest in their opposition of the larger plan, and are as firmly convinced that a canal completed along the plan of the nine-foot level will be sufficient for all requirements. Therefore the friends of the canal, while united in the greater cities, are at odds in other sections of the State over the amount of expenditure which the Commonwealth should authorize for the completion of this important work. So far as the thousand-ton barge canal is concerned, I had thought that the route known as the Oswego, Ontario and Olcott at a much less cost would be sufficient for all purposes and would secure the result desired much more speedily than the so-called interior route. Those who have given the Lake Ontario, Oswego and Olcott plan study, are firmly convinced, however, that it is impracticable, and that at the time when the canal traffic would be at its heaviest, it would be impossible because of adverse winds and dangers of navigation. So we are forced to the conclusion that the only practical route for canal traffic for a thousand-ton barge would be along the more expensive line which can only be built at a cost under the State Engineer's estimate, and assuming that the bonds were for fifty years and the interest at three per cent. of $193,980,967.50, principal and interest. This plan only contemplates the deepening of the Champlain canal to seven feet, but the advocates of canal improvement now desire that it should also be deepened to a twelve-foot level, which

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would increase the cost to $215,000,000. It is well known that no great undertaking of this character ever was completed within the engineer's estimate, but owing to increase in the cost of labor and material there should be a factor for safety of at least twenty per cent. more, which would make a probable ultimate cost for construction of over $255,000,000 in principal and interest, from which should be deducted the interest of the sinking fund. Suggestions have been made, and it is but fair that they should be presented to you, that if the canal were enlarged to a nine-foot level and by the use of the water powers of the State and by the introduction of electric motors that not only the same object could be accomplished, but that sufficient revenue could be derived from the sale of power to almost maintain the canal. The cost of electric equipment and providing water power would be much less than under the thousand-ton plan, and perhaps would accomplish the same results. If this be feasible I am sure that all who are interested in the welfare of the canals would be glad to give it consideration. If this plan should be adopted, the canal could be constructed within two or three years, and the constant withdrawal of commerce could be checked much more rapidly than under the thousand-ton barge plan and it could be provided for under the present Constitution. The former would require an amendment. If it should be deemed wise to select the thousand-ton barge plan, it could be submitted to the people this fall under the eighteen-year bonding clause of the Constitution, and no work performed until the adoption of a constitutional amendment extending the time of payment. In the event of a refusal by the people to so amend section 4 of article 7, under the same section the Legislature can repeal or render inorperative the expenditures au-

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thorized and thus safeguard against excessive taxation, which would be required for the improvement. In the event of the thousand-ton barge plan being authorized, I would recommend the adoption of a concurrent resolution providing for the reimposition of limited tolls, which would perhaps produce revenue enough to provide for the maintenance of the canal, believing that the lowering of the freight rates would be so great that a tollage could be easily met without interfering with the results which it is hoped to accomplish under this plan. The money for payment of principal and interest of the debt could be met by a dividend tax upon the capital stock of manufacturing corporations, which would produce about $2,400,000, and by modifications of existing revenue laws by slightly increasing the rates affecting others than corporations. But as it is not necessary to provide this revenue until the plan shall be approved by the people, there is no immediate necessity for the consideration of this part of the problem other than the adoption of a resolution for the reimposition of tolls, which must be by constitutional enactment.

Important changes were made at the last session of the Legislature in the law relative to the institutions for the insane, which were, first, the substitution of boards of visitors for the old boards of managers; second, the centralization of all powers in the Commission of Lunacy, the details of management as heretofore being left with the superintendent.

The changes made in the government of the charitable institutions of the State were the creation of a new office known as the Fiscal Supervisor, whose duty it should be to investigate and supervise all financial transactions of this department, the management being left in the boards of managers as heretofore;

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second, the creation of a commission consisting of the Governor, the State Comptroller and the President of the State Board of Charities, whose approval should be necessary to all plans and specifications for new buildings or additions.

In the administration of this important part of the State work above everything is to be considered the physical and medical treatment and care of its wards. No change would nor should meet with approval that sought to effect economies at the expense of the health or the comfort of the inmates of our institutions. Too much sentiment, however, is as undesirable as too much economy, but there can be a happy medium which will be satisfactory to those interested in charitable work and who regard any innovation with distrust and disfavor, as well as to those who believe that the administration of all of the State departments should be upon strict business lines.

Some features of the administration of the Department of Lunacy have always been undesirable, and extravagances existed which did the patients no good and which accomplished nothing in the direction of cures. It was to correct this that the amendments to the laws were recommended. The wisdom of these changes has been shown by the results produced. A more liberal allowance in measuring accommodations has been adopted than heretofore; an extension of the system of joint purchases has been followed with resultant economy, and while in no way depriving the localities in which these institutions are situated of the privilege of supplying goods, it must be done after competitive bidding and local influences in these matters have been eliminated. The monthly reports of the Boards of Visitation which the law provides for have brought to the attention of the Commission in Lunacy and the Governor at once

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the necessity for repairs or for the correction of conditions which need immediate remedy, and have prevented delays which frequently resulted under the old management and which produced discomfort to the patients. The new law has also had the effect of separating the medical from the business administration of the institutions. It has saved the State, through the abolition of the treasurers and other features of administration, about $20,000 per annum. It has limited the cost of new buildings to $450 per capita, which is considered ample by the State Architect. But above all, the entire responsibility for the administration of these institutions has been absolutely fixed in the State Commission in Lunacy. The boards of visitors consist of devoted men and women, and they show great interest and intelligence in the performance of their duties. There is more marked efficiency and more devotion to the work than existed under the old boards, whose members did not believe that it devolved upon them to criticise their own appointees. Not being so embarrassed, the boards of visitors criticise intelligently and in a manner to bring speedy relief. All complaints have been promptly investigated and the recommendations made have been acted upon favorably so far as possible. More food is allowed, and in every way possible attempts have been made to raise the standard of administration. There have been fewer recoveries during the past year, the total for 1901 being 1,209, and for 1902, 1,125. The physicians, when asked for the reason for this apparent decrease in the rate of recovery, state that it is because a different class of patients is being received in the institutions. In other words, that the local hospitals are treating acute cases of insanity with considerable success, thus relieving their relatives from the necessity of placing them in

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the State asylums. The physicians in charge at the Hudson River Hospital, and Binghamton Hospital, say that in their particular institutions, where all of the decrease practically occurs, the class of patients which they are receiving almost debars hope of recovery. The physician at Binghamton says: "It is difficult to determine exactly the cause of the lower percentage, but it is undoubtedly due in part to the advanced age of many of the patients admitted, and in part to climatic conditions which were not as favorable as usual. If we eliminate from consideration the patients who on account of the length of duration of mental disturbance prior to admission, or who because of extreme old age, were presumably incurable at the time they came under treatment, the percentage of recovery will be seen to be much more favorable." The physician in charge at Poughkeepsie expresses the belief that by reason of the opening of the insane pavilion in connection with the Albany Hospital, and the treatment and cure there of a great number of recent and acute cases which formerly were committed directly to him, the quality of the patients as regards recoverability has been markedly decreased. This consideration has led the Commission to suggest that at New York there shall be a similar hosptal provided, so that such acute cases can receive not only the attention of the physicians who are employed by the State, but of the distinguished alienists residing in the metropolis. That the average number of patients admitted to the hospitals would be thereby considerably lessened and the cures increased is certain, and with this recommendation I am in hearty accord. The health of the patients, however, has been very much improved. Notwithstanding the fact that there were six hundred more population during the past year, the number of deaths has

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been sixty less than the preceding year. To sum up the situation, the percentage of cures, while less than in 1901, is quite equal to the average of the six years preceding, and markedly in excess of the rate of some of these years, while the death rate has been lower. The increase in the insane population will ultimately require the establishment of another hospital, but for the present the following suggestions are made: The expenditure of $225,000 in separate buildings for the superintendents and medical staffs at Poughkeepsie, Utica, Buffalo, Binghamton, Rochester and Gowanda; by the establishment of tuberculosis hospitals at six of the institutions at an expense of $90,000, the danger of communicating this disease to other inmates can be averted; by erecting a home for the nurses at Kings Park at an expense of $54,000, and by the expenditure of $150,000 at Bedford Reformatory, and by transfer of its inmates to another institution, which I shall speak of farther on, a total of 2,670 beds, at an expenditure of $519,000, an average per capita cost of $194.44 can be provided which would care for all the patients during the next two or three years, and would save $682,500 in the accommodations furnished.

The only change that has been made in regard to the charitable institutions, as has been stated, was in the direction of conferring authority upon someone whose sole duty it would be to supervise their financial administration and who should have power to suggest and perfect some system similar to that which has so greatly reduced expenditures in the Department of Lunacy, and to take advantage of existing conditions for the employment of the inmates. There is no reason why the farms connected with some of these institutions should not aid in supplying food and other necessary articles which are required

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for use in other State asylums. The State prison industries cannot furnish all of the manufactured articles that are necessary, and frequently the State is obliged to make purchases of such goods in the open market. Of course there is no desire to interfere with any industry in which free labor is employed, but inasmuch as it has been the policy of the State to provide, so far as possible, for its own needs, it would seem to be desirable that some action should be taken to make effective the labor in these homes, which, aside from other considerations, would be for the benefit of the inmates themselves.

There are three asylums for the reformation of girls and women; one at Bedford, one at Hudson and the other at Albion. The present population of these three institutions could be easily taken care of at Hudson and Albion. If the law were so amended that only those who had taken the first step in crime, rather than frequent offenders as well, should be committed to these institutions, much better results would follow from the standpoint of reformations, as it would prevent the commingling of old offenders with younger delinquents. It is because of the waste of effort in these three institutions that I recommend the abandonment of one and its conversion into a hospital for the insane. Aside from the use to which it could be put for that purpose, it would effect a saving of many thousands of dollars without detriment and without in any way interfering with the results which we all hope may come from the administration of such a department.

The Elmira Reformatory is overcrowded, and perhaps some measure should be taken to enlarge its capacity. The first change, however, which should be made should be to prohibit

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its use by the United States government, thus relieving the prison to a certain extent from overcrowding.

At the last session of the Legislature a commission was authorized and empowered to select a new site for the State Industrial School at Rochester, where farming could be engaged in and the inmates given a more wholesome life than is possible under the present arrangement. This commission will shortly submit its report to the Legislature. While at first opposed to the plan because at the time it was proposed I understood it to be simply a transfer from one section to another without corresponding benefit, I cannot now but urge upon you the necessity for making this improvement along the lines which will be suggested in the report to which I have referred. In all of the State's work there is nothing more desirable than the reformation of those who perhaps have been deprived of proper home influences and of the examples of good citizenship. No branches of the State's charitable work should appeal to us so strongly as its institutions for the insane and its reformatories, because there is something in this work that has a reward at the end, which is not possible with the unteachable and chronic in other institutions. False economy should not dictate our action in this direction, but there should be a ready response to every legitimate demand that may be made for the advancement of this work.

While this department has been in operation only since June 1st, the supervisor has established a system of purchasing under joint contract similar to that adopted by the Commission in Lunacy, which has already resulted in a material decrease in the cost of supplies for these institutions.

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In the matter of expense for construction of buildings for this department, there has been a marked decrease. For instance, the new board created under the charities act to pass upon plans for betterments and improvements, adopted plans for buildings at Sonyea, at the Thomas Asylum, at Oxford and at Newark, where a better class of buildings have been provided, furnishing the same accommodations at a great saving over the cost of similar buildings that were erected during previous years. The food supply has been improved. Impure goods have been thrown out and everything that could be accomplished in giving a better and more wholesome dietary has been done. The same careful supervision by the State Board of Charities is still maintained, and the correction of abuses for which they are constitutionally charged secured, only those powers being taken away from them which it was never intended under the Constitution to confer. With this summing up of the situation I am confident that the people will be satisfied, and that the results, so far as efficiency and economy are concerned, will commend themselves to the taxpayers of the commonwealth.

The increase in the statutory laws of the State, through what are known as special acts, not only consume the time of the Legislature, but render it more difficult for the legal profession to keep in touch with the changes that are constantly being made in our laws. General laws should govern so far as possible. Amendments to the game laws, special amendments to the charters of villages and cities should be discouraged, and relief afforded through general enactments whenever and wherever practicable. The Legislature could well afford under the direction of the Forest, Fish and Game Commission to accord to the boards of supervisors the right to

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regulate, under a general statute, the game laws for their own particular localities. The veto power which was accorded to the mayors of cities of the State had for its object not only the prevention of undesirable legislation, but also a reduction of the number of amendments to city charters. One of the sources of these legislative ills are measures which seek to restore, to repay or reimburse persons through some failure of power which should be lodged in municipal or State authorities. The time of the Legislature is not only consumed but they sometimes act without a proper knowledge of the merit or demerit of the case and often thus lay the foundation for the establishment of illegal claims. Repairs upon roads, the erection of bridges over the canals and other expenditures to be made by the State should be included in the annual appropriation bill upon the recommendation of the heads of the departments affected. By so doing unnecessary improvements would be avoided and money saved to the State.

The average number of bills passed since 1894, as shown in Assembly Document No. 50, to the year 1900, inclusive, was 243 general bills and 589 special bills. Almost all of this legislation, judging from the experience of New Jersey, which has adopted a provision such as I have suggested, could have been avoided. Taking periods of three years before and after the adoption of this policy in New Jersey, the first period shows the average number of bills to have been 624, 111 of which were classified as general and 513 as special. For the second period the average number of acts proposed was 219, of which 188 were classified as general and 31 special. If the volume of legislation in this State could be reduced in the same proportion through

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the enactment of general laws it would be found to be of great advantage.

In addition to this there should be some competent authority to pass upon legislative bills before their introduction, or at the time of introduction, subjecting them to a scrutiny which will determine their constitutionality, or whether they conflict with or duplicate existing laws. This would not only secure statutes which would stand the test of the courts, but would avoid much unnecessary delay and reprinting of documents. This subject should receive your thoughtful consideration.

The charter of the city of New York presents many anomalies and renders difficult the fixing of responsibility where it properly belongs. The additional powers which have been given to the borough presidents and the board of aldermen deprive the mayor of authority which he should possess and renders it impossible for him to accomplish reforms when these offices are filled by those not in harmony with his administration. Additional power should be conferred upon the mayor so that he shall be charged with full responsibility as is the case in every other municipality within the State.

The conditions in the city of New York relating to the police force, the fire department and other branches of the city government, are of such a character that amendments should be made to the city's charter to correct the evils which exist. The police department, subject as it is to constant changes in the administration of the city, is in a most deplorable state, and the most drastic legislation would be excusable under the circumstances. A system which has permitted and which does permit blackmail and the use of the police department for political purposes, is one that should be condemned by every

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fair-minded citizen. The functions of the police are to protect life and property and to enforce the law, and not to become active partisans in politics. While I am in thorough accord with the principle of home rule, and believe that every municipality should be left to govern its own affairs, yet I also believe that the charter rights which come from the State should be so framed that the abuses which I have mentioned can be prevented and made impossible. A force which has grown up year after year under the direction of men who have used their offices to enforce payment for neglect of duty should be so reorganized that those whose influence is detrimental to its best interests can be removed and their places promptly filled by those who are more competent and more faithful to their oaths.

In the second class cities of the State there is no power of review by the courts. We may liken the great army of police of the city of New York to the military service, and we know that it is because there is no power, except in the army itself, to punish offenders and reward merit that makes it efficient, so there should be none except in the police force itself to enforce discipline. Mere technicalities or legal quibbles should not be permitted to prevent punishment for failure to perform duty, as is too often the case now with reference to decisions of the police commissioner of the city of New York, who is hampered with too strict legal requirements for the conduct of trials of delinquent officers. When he has decided that a man is utterly incompetent, his decision should not be overturned by the courts, who view his conduct of the trial from a legal standpoint only. Such dual authority is sure to lead to an undisciplined force, and the knowledge that through a court decision or by political favor, he may be per-

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mitted to avoid such punishment as should be administered, leads the officer to look with contempt upon the man whose tenure of office is at best for a short period. Additional power should be given the police commissioner to enable him under proper civil service regulations to dismiss incompetent officers, unhampered by the restrictions which are in effect to-day. The criticisms that I have made upon the police department lie with equal force and effect against the fire department, and the same legislation for the fire department should follow that which I have recommended for the police department.

Both the primary and election laws are constantly violated in the city of New York. Acting under advice, which at that time seemed to me to be such as to merit confidence, I vetoed a measure passed by the last Legislature which prohibited the transferring of voters from one locality to another by certificates prior to primaries. I am now convinced that this power is a dangerous one and that the law should be so amended that those who register their party affiliations on the days of registry during the fall should alone be permitted to express their preferences at primaries. While the objection may be raised that this would deprive a number of people of a voice in the selection of party candidates, yet this objection does effect equally those who remove from one election district to another prior to election. This power of transfer has been abused in the city of New York by alliances entered into by district leaders of opposite political faith by having a sufficient number of their followers register themselves as being affiliated with the opposite political party for the purpose of influencing contests for party control or for the nomination of candidates at

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primaries. Of course this is only done when the leader who desires to aid one of opposite political faith knows that he will have no contest for control in his own district. If the period between the date of registering party affiliation were six or eight months prior to the primaries, it would be a preventive in part against the misuse of such powers which can only be used with impunity by a district leader when he is certain that there is to be no contest within his own political party.

I, therefore, recommend an amendment to the existing law which will take away the right of transfer and which will permit those only who are registered on the regular days of registration to participate in party primaries.

The influx of voters into cities and the well-known plans of fraud by which one registers and another votes on the same name should also receive attention at the hands of the Legislature. In the larger cities of some of the States it is required that each registered voter shall sign his name on the day of registration as a means of identification on the day of election, and in case of his inability to write, that his identity shall be vouched for in a manner satisfactory to the full board of registry and election inspectors. I recommend amendments to the election laws as will produce such results in all the larger cities.

The constantly increasing tendency to defective ballots in our State and municipal elections presents some phases which should direct your attention to a more perfect ballot system than exists under the present law. Partisan action too often cause the rejection of ballots. The number of defective ballots cast at the last election was almost as great as the plurality received by the successful candidate for Governor. While it may be true that these ballots are divided evenly between the

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parties, yet the right of every citizen to express his choice of candidates and have his ballot counted should not be denied because through inadvertance or ignorance of the law it has not been marked in such a way as to satisfy the critical examination of partisan judges. I am of the opinion, therefore, that you should give this subject your careful and earnest consideration, and that legislation should be enacted that will in part at least prevent this growing evil in our ballot system.

The relations between capital and labor should always be harmonious. Each is dependent upon the other, and without a due regard for the rights of both there is a certainty of friction, which leads to misunderstandings and to demands which are not justified. It has been the aim of the State through legislation to extend privileges to both capital and labor, to encourage manufacturing industries and to offer inducements for their location within the commonwealth, thus affording certainty of employment for those who labor. Competition has made necessary the grouping together of industries, and the progress of our country and the increase in our prosperity have been natural sequences of this condition. Labor has met this by combinations or unions, so that we have not only combinations of capital, but combinations of labor to deal with as well. Under our system of government both are entitled to equal protection, and from both should be exacted the same respect for law and authority. Arbitration between conflicting interests has been resorted to whenever possible by the labor department of our State, and so successful have been these efforts that we have had but little disturbance during the past year between these great interests. I believe that wherever the necessaries of life are involved in dispute between employer and employee, that

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power should be conferred upon those affected to apply to the courts for relief, and that no power should be possessed by either capital or labor to deprive the people of that which is necessary for their welfare, but that ample authority should be lodged in the judiciary to properly enforce its mandates and that such disputes whenever they arise should not be permitted to interfere with those rights which are paramount and necessary for the well-being of the people. Proper legislation, therefore, should be accorded for this arbitration either by amendment or by the enactment of new legislation. The strike upon the Hudson Valley Electric Railroad, necessitating the ordering into service of the National Guard, developed a condition, through the expulsion of a member of the guard from a labor union, which is prejudicial to the best interests of the State. Under the Constitution every citizen is liable to military duty. Under our law we have provided for voluntary enlistment in the National Guard, giving in return certain rights and privileges for the service thus rendered. The stability of our government depends upon prompt obedience to and the proper enforcement of our laws, and whatever tends to break down the safeguard of the judiciary and make inoperative the orders of the court is detrimental to public policy, and is a clear defiance of law and authority. There have been instances in the State where employers have discharged employees because of their connection with the National Guard, notably in the case resulting from the Brooklyn railroad strike. Certain labor unions now deny their privileges because of membership in the National Guard. This is a blow at constitutional government. The law at present is inadequate to meet this condition, and it should be your duty to correct it by amendment. I believe whatever tends to lessen

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the patriotism of our people is out of harmony with republican government, and I commend this subject to your consideration with the recommendation that such offenses be made misdemeanors and that adequate punishment be provided therefor.

The Tenement House Law, which was enacted in 1901 and amended at the session of 1902, I am satisfied should be further amended. It is claimed that conditions which are applicable to New York city should not apply to the borough of Brooklyn or to the city of Buffalo. I recommend this subject to your consideration for such action by you as will cure such defects in the existing law, which have been made manifest under its operation during the past two years.

The purchase of land in the Adirondacks for the preservation of our water supply has not been continued during the past two years. I have been of the opinion that some definite plan should be adopted so that the State, if it desires to take all of the land or such a portion as may be determined upon, within the limits of the proposed park, should pursue the work along lines that are designed to fully protect and guard the State's interests. In my last message I recommended that in return for privileges which would permit scientific forestry upon private lands, that the State should assume all taxes within the park. There were many favorable responses to this proposition from large owners of real estate in the Adirondacks. So long as forestry and lumbering are pursued upon scientific lines, enough land is now owned by the State to protect the water supply, but the danger arises from changes of ownership by those who are now making their summer homes within the park limits. The question is a very important one. It will require several millions of dollars to secure land that as yet is not owned by the State. Whether

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this is to be done by small annual appropriations with constantly increasing prices, or whether the subject is one that calls for liberal appropriations, which are only possible through bond issues, is worthy of your consideration, and I recommend that the subject be referred to a commission to inquire into and ascertain the ultimate cost and the benefits to be derived by the State.

The building of good roads has continued during the past year with gratifying results. So great is the demand for State aid that it will soon become necessary to have recourse to bond issues to meet these increasing obligations. If, therefore, any extension of time for the payment of bonds is authorized for canal improvement it should be made applicable for that purpose also.

In some of the States it has been thought wise to have one of the departments bring to the attention of the public the attractions within the State and to give information concerning them. This has been notably true of New Hampshire, which has placed the management of this work under the control of the Bureau of Labor. The interesting statement is made that more than five millions of dollars were spent in the State of New Hampshire during the past year by non-residents, such as summer boarders and tourists. Whatever may tend to increase the wealth of the State and make it more attractive is important, and I would suggest that it might be well to empower the Forestry Commission to work along similar lines and to issue such publications as are necessary to properly and adequately perform this work.

In the administration of the Excise Department it has been the custom to depend more upon civil actions than upon criminal

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prosecutions for the proper enforcement of the law and for the punishment of violations. It often occurs that prosecution are begun long after the violation has taken place, and this is perhaps caused by the lack of facilities afforded by the courts. It seems to me that inasmuch as the State is the licensing power, both the civil and criminal prosecutors should be absolutely within the control of the department, thus effecting a more speedy settlement of all excise cases. The law should be so amended as to make it obligatory for immediate notice of every violation to be given to bondsmen and also that it is the intention to immediately begin suit. Police authority should be accorded to inspectors, thus enabling them to arrest at once violators of the law. This would be following the practice of the Federal government in the enforcement of the internal revenue laws, and I am convinced that better results would be produced than have been shown during the past few years. It may necessitate an increase in the number of inspectors, but if it brings about a better observance of the law, the expense will be justified. I recommend such legislation.

The State's prisons and reformatories are designed, not only for the punishment of crime, but have also as their object the winning back as far as possible to good citizenship those who have taken their first downward step. The Parole Law had this for its object. Results have followed which in the main are satisfactory. A betterment of the prisons has been going on under the wise administration of the Prison Commission and the Superintendent. The health of the inmates shows that from a physical standpoint everything that is desirable has been furnished, and the inducements held out under the Parole Law have had the effect of bringing about more reformations.

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The additional amount provided by the Legislature for primary and secondary education has produced such results as to lead to still further recommendations for a more liberal treatment of those desiring the advantages of higher education, and your attention is directed to reports of the Educational and Regents' Departments for information upon these important subjects. It should be provided by legislation that high school education shall be accorded to all pupils residing in districts without these advantages, at a per capita rate to be paid for by the State, and thus relieve the parents of the expense of tuition incident to the full enjoyment of these privileges. In the consideration of this subject there should be no antagonism which will produce friction between the departments affected, and only such consideration should be given as will produce the best results.

The laws relative to the employment of children are in such an unsatisfactory condition that their enforcement is almost impossible. It is the duty of the State to guard against illiteracy, and the Truant Law, which had this for its object, is made practically inoperative by failure to fully prevent child labor by existing statutes. The law which prohibits the employment of children in factories does not prohibit their employment by such corporations as telegraph and other companies, and the result has been that New York State shows an increase over the last census in the percentage of those who cannot read and write. Aside from a desire to guard against physical and mental degeneracy and to prevent other abuses, this one fact of itself is of sufficient importance to demand attention, and I recommend that the present law be so amended as to make effective the statutes regarding the employment of children.

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The Commission which was appointed to inquire into the law's delays in the first and second judicial departments has in part performed its work, but owing to the lateness of its appointment it is not possible for it to present a report at this time which would be of value in the formulation of amendments to existing law. The Commission should be authorized to continue its work during the present session, and even for a longer period, because there is nothing of greater importance to the people of New York city than, if possible, the correction of conditions which have made it almost impossible to secure speedy adjudication of cases in these departments.

The Civil Service of the State, through the enactment of the so-called White Civil Service Law, has brought upon the administration of that department new duties, and its findings and decisions have been subjected to review by the courts more frequently than those of any preceding boards. As is well known, the consent of the Governor is necessary before any change can be made in the classification of employees of the State and counties, while in the cities the approval of the action of the local Civil Service Boards depends upon the State Civil Service Commission. It has become the custom, however, to practically nullify this law through actions in the courts, by directing through mandamus and otherwise the payment of salaries where the approval of the Civil Service Board to the payment of such salaries has been withheld. This entails considerable expense upon the State and some amendment should be made to the existing law to remedy this condition. I recommend, therefore, that where changes have not been sanctioned by the State Civil Service Board or the Governor, that no salaries shall be paid by the local authorities or the State Treasury, and that the

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power to enforce such payment in the courts shall be denied. Flagrant violations of this law have frequently occurred through these court orders, and employees in the competitive class have been able to secure that through the court which has been and should be denied them under the statutes which exist for governing the Civil Servce of the State.

I trust that the results of your deliberations and of your action may be such as to merit continued approbation of the citizen of the State. I can but pledge you my cordial co-operation in carrying out and in still further advancing the standard of our State in the administration of its affairs.

B. B. ODELL, JR.

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MESSAGE

OF THE

GOVERNOR

OF THE

STATE OF NEW YORK.

TRANSMITTED TO THE LEGISLATURE JANUARY 6, 1904.

ALBANY
OLIVER A. QUAYLE
STATE LEGISLATIVE PRINTER
1904

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STATE OF NEW YORK

No. 2.

IN SENATE,

JANUARY 6, 1904.

The Governor's Message.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,

ALBANY, N. Y., *January* 6, 1904.

To the Legislature:

I herewith submit my fourth annual message. The condition of the State's finances is most gratifying. Our receipts are nearly equal to payments, and with the large surplus on hand, it needs only prudence and wisdom upon the part of the Legislature to make unnecessary a direct tax for the ensuing year. The bonded debt of the State is $9,665,660. If from this we deduct the sum of $3,074,566.09, now in the sinking fund and available for the extinguishment of this debt, the net bonded

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obligation is but $6,591,093.91. It will be necessary at the present session to provide for the payment of $55,000 Adirondack and $200,000 of Public Defense Bonds which will become due during the next fiscal year.

The total receipts into the State Treasury from indirect revenues were $22,341,802.97 and from all other sources $1,967,695.73, a total of $24,309,498.70. The total payments were $24,346,723.27, showing a deficiency in receipts of but $37,224.57. The actual cash balance on October 1, 1903, was $10,192,629.34. If from this we deduct all appropriations in force on September 30, 1903, the free balance for the current fiscal year, which may be classed as surplus, was on October 1, 1903, $8,562,277.85, a sum sufficient to guard against unforeseen contingencies or lessened receipts from sources which are liable to fluctuations.

CANAL IMPROVEMENTS.

The adoption of the referendum for the enlargement of the canal system of the State brings to us responsibilities which call for sound judgment and conservative treatment. The policy of the State having been determined, neither factious nor personal opposition should hinder its fulfillment. Unnecessary delay is as undesirable as undue haste. A business-like treatment of every detail is demanded. Verification of the engineer's estimates of the most important and difficult portions of the work by actual bids should be obtained at once. I am advised that the surveys already made will permit an early submission to bidders of plans and specifications for some of the most costly sections. The Expert Board provided for in the act will be soon appointed by me. I hope to take such action at this initial period of the work as will take the whole project out of political surroundings.

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Merit should and will be the sole test in the selection of its individual members. That the Board may be unhampered in its work it is desirable that the terms of office of its members should be coincident with the period of construction, and that removals should be for cause only upon charges duly sustained. Thus safeguarded and working under the restrictions imposed by the statute and in harmony with the State's officials, this Board can be relied upon to properly protect the State's interests. The change in route, the abandonment of the present canal in part, the purchase of other property, should receive careful attention. To this end we should not alone purchase the land necessary for the canal itself but we should also secure such releases as will minimize the claims which may arise as the result of its operation. A Board of Appraisers of say three members should be authorized to effect settlements with owners and thus bring down to actual figures and certainty that which at present is at the best but mere conjecture. Every detail having been provided for, and the accuracy of the estimated cost of the work determined, there will then come the positive knowledge that either the canal can be completed within the sum authorized, or that a necessity exists for a greater expenditure. All of these precautions will not delay, but will rather hasten the building of the canal and will also serve to allay the fears of all and inspire confidence in the administration of the work. If, as I am firmly convinced, no mistakes have been made, then the most important subject left for the consideration of the Legislature is that of providing ways and means for the raising of the money to be expended. While the referendum provides for a yearly direct tax and the payment of the debt in eighteen years, I am sure that the general expectation is that some other method may

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be devised. To return either to a direct tax or to seriously disturb existing tax laws is far from desirable. New York, with its vast interests and wealth, has resources which would seem to make it almost a profligate use of funds to burden the people with unnecessary interest charges. The present law proposes to pay in eighteen years for interest $54,540,000. If the period be extended to fifty years the expenditure for the same purpose would be $151,500,000. The principal sum in both cases is in addition to be provided for. What is it we seek to escape and what benefits do we derive from this absolute waste of public moneys? New York has a valuation of nearly six billions of dollars. One hundred and one millions of dollars is probably one of the greatest sums ever appropriated for a single public work, and yet if in the wisdom of the Legislature it should be all levied and collected in a single year, the tax would be but $17.12 per thousand of valuation. While this sum is large for State purposes, yet there are but few municipalities in our commonwealth that can boast of so favorable a local tax rate. If the expenditure were spread over ten years, the probable period of construction, the yearly tax would be but $1.71 per thousand. Therefore in order to escape, or rather to put off for eighteen years the extinguishment of the debt, the intention is to burden ourselves with interest charges equal to fifty-four per cent. of the principal. True, with mathematical accuracy the whole proposition is worked out in annual payments, yet the result will be practically as I have outlined. If we could pay this debt in twenty annual installments without interest, our obligation would call for $5,550,000 annually, or but $2,470,000 in addition to the proposed yearly interest charges. This could be done if the State's revenues from indirect sources were

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large enough, but unfortunately our present revenues are not sufficient for this purpose. If, as I have indicated in prior messages, however, advantage is taken of opportunities to correct some very manifest inequalities in our tax laws, the increased receipts which would result would then in twenty years provide for the total expenditure. But how can this be accomplished, it may be asked? If the State had additional revenues of $5,500,000 annually it could furnish probably all of the money that might be required for the first five years without recourse to the sale of bonds or levies upon the localities. During the last five years of the work, there will be of course a necessity for such a sum as may remain unpaid, or an aggregate of about $75,000,000. The payment of interest if the bonds were issued under the referendum plan would take nearly two-thirds of this new revenue if it were to be paid annually, and therefore no saving would result. It is, therefore, necessary that the interest should be deferred, that is, the bonds to be issued should be of such a character that the principal and interest might be paid at maturity. Such bonds, however, might not prove attractive to investors and it would be necessary therefore to have recourse to the counties in order to perfect and make successful the plan I have in mind for the best method of financing this public improvement. The deferment of payment of interest should not alone be our object. No large sum of money should be on hand until the necessity for its use arises. Assuming, therefore, that the localities will be called upon to bear this burden, the proper financing of this loan would be by the issuance of bonds upon which there would be the smallest possible interest charges. Assuming that new revenues will be provided and that the period of construction will be ten

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years, $25,000,000 could be paid by the State by the end of five years without levies upon the counties. If levies were then made for the remaining five years of ten millions of dollars annually upon the counties in proportion to their assessed valuation, this with the continuance of the State's contribution of five millions of dollars annually would provide the whole sum that is necessary for the completion of the work. Bonds could be then issued which would represent the aggregate of principal and interest and could be given to the localities in return for their levies, provision being made for their retirement after the State's primary payments for ten consecutive years had been completed. The period for which these bonds can be issued is but eighteen years because of the constitutional limitation. There is no reason why they cannot be paid off sooner however, and a great saving in interest charges would be thus effected and there would then be no necessity for creating a sinking fund if the bonds were retired annually as the State had the ability to do it. The bonds could be issued in annual series of $5,000,000 each, five years after the commencement of work and completed in twelve years, which would make the life of the last series of bonds seventeen years. The first series would be paid in six years from the first contribution from the counties, the second in seven years, and so on to the final payment. The bonds which I propose should be issued would be first, for the first levy of $10,000,000 upon which there should be computed six years interest at three per cent. upon $5,000,000, and seven years interest upon $5,000,000. The second levy of $10,000,000 would be covered also by two series of bonds of $5,000,000 each upon which seven and eight years interest would be computed respectively. This form of bond issue would be continued until the final levy,

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and $50,500,000 had been provided for in twelve annual installments. The total amount of principal and interest which would be thus required would be $62,750,000, which would require a yearly annual payment for twelve years of $5,230,000. These bonds then could be placed with the counties in proportion to their contributions or levies at their then present worth. This I am led to believe would not be inharmonious with existing law which provides that they shall not be sold for less than par, as the face value of the bond would be par and accumulated interest for the period which it was to run. The delivery of these bonds to the counties would be a guarantee that finally the State would reimburse every locality for such levy as might be made annually for the necessary funds with which to build the canal. They could be used by the counties as a sinking fund for the retirement of their own bonds which might be issued if it is so desired. The latter bonds being county bonds, would not interfere with the borrowing capacity of any municipality. Under this method the only burden which would be placed upon the counties would be the interest charge upon their own bonds, which would be recouped to them finally, so that their own bonds could be retired and there would be a constant decrease in the amount necessary for interest charges after the maturity of the first series of bonds. Therefore the counties would suffer no loss. The necessity for a direct tax would not exist and the whole cost would be borne by the State from its indirect revenues. To accomplish this, a constitutional amendment which would permit the payment of bonded indebtedness from indirect revenues would be required. It might be necessary to provide also for a constitutional amendment which would permit the loaning of monies to the State by the counties,

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although I am convinced that if the contributions of the localities are treated as tax levies, such a necessity would not arise. But it would be better perhaps to provide for this by amendment to the Constitution. Other constitutional objections might be raised, but ample time can be taken without in any way interfering with the progress of the work, and such amendments as are considered necessary could be presented to this Legislature and be readopted by the next Legislature, and then submitted to the electorate of the State in 1905. Assuming that the total expenditure will be $101,000,000, the whole cost will be as follows:

State's proportion in ten years.....	$50,500,000 00
Counties' proportion to be repaid.....	50,500,000 00
Interest to be repaid to the counties.....	12,750,000 00
Total	$113,750,000 00

Under the present law the payment, principal and interest, would be $155,540,000, or $41,790,000 more than by the plan suggested. All that is necessary to accomplish this are new revenues to the amount of $5,500,000 annually, thus saving to the people of the State this great sum of money. To provide for the present, ten millions of dollars of bonds could be issued for two or three years to meet immediate needs and then be retired.

As $101,000,000 are authorized and but $62,750,000 for this purpose are required, this temporary use of $10,000,000 of bonds would not affect the plan I have outlined. In order that the practicable working out of these results may be shown, I have applied them to the Greater City of New York, Erie, Dutchess and Seneca counties, on the 1903 valuation, showing first their

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contributions and the value of bonds with accumulated interest received:

	Payment.	Bonds.
New York	$33,397,275 00	$41,719,337 50
Erie	2,624,485 00	3,261,117 50
Dutchess	378,245 00	469,997 50
Seneca	123,222 00	153,110 00

While under the present law the contributions would be as follows, for principal and interest:

New York City	$103,410,769 00
Erie	8,083,413 80
Dutchess	1,164,994 60
Seneca	379,517 60

In this latter computation the working of the sinking fund is disregarded, because the loss upon yearly payments would counterbalance the benefits which would accrue. To accomplish this saving is it not better to disregard conditions which, while apparently securing local benefits, are in reality more than overbalanced by payments which will be necessary under a direct tax system for the purpose of rebuilding the canals. There may be a suggestion that indirect taxation will in effect be a tax upon the localities, but the revenues should be derived mainly from sources which do not at present form any considerable part of the local revenues.

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PUBLIC EDUCATION.

In the administration of our school system two authorities are in control. The one, the Board of Regents, has for its particular function the charge of higher education, while the so-called primary or common school education was placed by statute under the Superintendent of Public Instruction. From time to time friction has arisen, with results which have been in no way beneficial to the cause of education. Dual inspection and greater expense have resulted with no compensating benefits. A well defined line between the two departments would in a large measure remove these unhappy conditions. Both are necessary. Neither should trespass upon the rights of the other. In our magnificent school system each has its proper place and consequently no effort at the displacement of either should receive serious consideration. Primary education should be understood to include all schools where academic education is not a part of the curriculum. Academic education, on the other hand, should be under prescribed courses with not less than a three years term. With this line of demarcation the duties of the Superintendent of Public Instruction and the Regents could be determined and fixed by statute. Who has the most or the least is not worthy of consideration, but rather that both should perform their work equally for the advancement of education. Mere disbursements of public moneys do not mean efficiency. What is more necessary are plans formulated by competent educators. If, therefore, all so-called academic departments were placed under the charge of the Regents, and every grade of school up to the academic under the Superintendent of Public Instruction, better results would be produced.

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A joint committee appointed at the last session of the Legislature has this subject under consideration, and it is to be hoped that from their report and these suggestions, needed legislation may result. In order to accomplish and carry out such changes as I have suggested, chapter 556 of the Laws of 1894 should be so amended as to provide for a three-year academic course in order to secure State aid as an academic department. Second: The Superintendent of Public Instruction should be relieved of his power over academic schools, as to the approval of the course pursued, by amendment to chapter 1031 of the Laws of 1895.

I make these suggestions with no discourtesy to the committee investigating these departments, but with the hope that there may come much needed legislation, which will result in the elimination of unnecessary strife and a consequent advancement in our public schools and higher education.

CORNELL SCHOOL OF FORESTRY.

By chapter 122 of the Laws of 1898 the State purchased townships 23 and 26 in the county of Franklin, and Cornell University thereupon took title and undertook practical demonstration and instruction in the School of Forestry. Its operations had for their object the substitution for so-called worthless timber valuable growths, but this has resulted in the practical destruction of all trees upon the lands where the experiment was in progress. No compensating benefits seem possible to the present generation. The preservation of the forests is primarily for the protection of the water supply, and this is not possible through the denudation of the lands. Therefore this school failed of its object, as understood by its founders, a failure which was not due however to the work of the University, which fol-

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lowed out the letter and spirit of the law. The report of the committee of the Assembly at the last session of the Legislature, and the knowledge of the disapproval of many of our citizens, led me to veto the item for its support in the appropriation bill of 1903. The question therefore is before you, and to the Legislature we must accordingly look for such action as will properly protect all interests. Cornell University undertook this work at the request of the State, and as such was its agent. In so doing it has made contracts for which it is primarily responsible, but which responsibility as the agent of the commonwealth it should not be called upon to assume. Neither should the school it founded be discontinued, because with the lapse of years a proper understanding of scientific forestry will become more and more a necessity. This is particularly true of farm forestry, which will form an important part in the future of agriculture within the State. That our people do not desire, however, that public lands shall be denuded is beyond question. It would seem therefore desirable that immediate legislation be had to recover to the State this property, of which there is about 30,000 acres, and for the payment into the Treasury of the unexpended portion of the capital fund advanced by the State. Permission should be given to clear up and remove all cut timber and wood by the university, so that the danger of fire may be lessened. The contracts made between Cornell and the Brooklyn Cooperage Company might be left with the Executive for adjustment, and failing in this either to the Court of Claims, if the State is to be the party defendant, or to the Supreme Court if Cornell should be the responsible defendant. In neither case, however, should any burden be placed upon the university.

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FOREST PRESERVE.

The purchase of land in the Adirondacks and Catskills by the State was discontinued two years ago, because of the belief that some comprehensive plan should be formulated for the continued acquirement of property and for avoiding the constant increased price of land which followed each appropriation. A committee appointed in accordance with the recommendation made in my last annual message has investigated this subject and will doubtless report some method of arriving at the desired results. It would seem to me that in every private camp, since it is the object of the State to protect the water supply, that at least the timber rights should be secured either through purchase or condemnation, and that all other lands should be acquired in full. There are in private preserves 705,914 acres, and in other holdings 1,356,816 acres. Much of this land has been lumbered over. Much has been burned and destroyed. In both cases replanting and protection should begin at once. The numerous forest fires, causing great destruction, call for greater vigilance upon the part of the State. Restrictive laws and additional means for properly patroling those points where danger exists should be provided. The many disputes, with consequent litigation as to ownership, it seems to me call for a comprehensive plan to prevent the acquirement of lands by people who rely upon vague titles for possession. It is of the greatest importance that the State should eventually own every acre of land within the Preserve. Some action therefore should be immediately taken to acquire quasi possession at least and thus prevent speculation in that which it is the policy of the State to own. The recent fires have left dangerous debris which should be removed.

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To sell it is beyond the power of the State, but to clear up burned over tracts is necessary for replanting. If a Constitutional amendment is required to accomplish this end, it should be undertaken at once.

FOREST PRESERVE ASSESSMENTS.

For the purpose of aiding the townships of which the Forest Preserve forms a part, the State has generously consented to an assessment of its land for all tax purposes. This is an exception to the general rule in regard to State property, except such as is permitted to be assessed for local purposes by special acts of the Legislature. There seems to be, however, no statute which adequately protects the State's interests in this respect. I would suggest an amendment to the law to govern this particular class of State property which would provide in effect that the assessment upon such property should be made conjointly with the State Board of Tax Commissioners. The State owns in many instances from sixty-five to eighty per cent. of the townships, and it is proper that before large increases in valuation which have followed recent assessments are confirmed, some method should be devised by the Legislature to protect the State's interests and avoid large bonded debts which are to be liquidated almost entirely by the State. It would seem no more than proper that the State's consent, through the Comptroller, should be first obtained before a bonded debt could be authorized. It is a peculiar situation which exists and it requires different treatment than in almost any other locality in the State.

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CHARITABLE INSTITUTIONS.

The more modern methods of treatment of insanity, the consequent increase in requirements have brought us to an anomalous condition. Notwithstanding the additional space in hospitals, we apparently have not added to the dormitory capacity of our institutions. This to the uninformed seems like overcrowding and unwise economies. During the past three years appropriations amounting to $3,170,000 have been made to meet these growing demands. In 1898 the capacity was rated at 20,656 and in 1901 it was reduced to 18,678. Thus it would appear that the State's ability to properly care for its insane population was lessened notwithstanding that large sums had been expended to increase the dormitory facilities. During the past three years provision has been made for 5,147 new beds, so that if the old measurement of capacity of 1898 were in force we should have, when all changes are made, facilities for a population of 25,403. The present population is 24,187, with a rating in capacity of 23,825. From this statement it will be readily seen that under modern methods more cubic space per capita is allowed, with resultant advantage. In every direction that which is for the benefit of the patient has been furnished. The total cost of maintenance for the year was $4,104,689.23. Better discipline prevails among the employees and the increased pay for the nurses has produced results which more than justify the additional expenditures involved. Up to the present therefore there seems to be no just cause for complaint. New York, like every other seaboard commonwealth, is experiencing the baneful results which come to it because of the ease with which degenerates and incompetents from other lands can be sent here. We are obliged to rely for protection upon the inspections which

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the Federal Government makes. It would seem to be the part of wisdom to protect ourselves, and to that end I should favor legislation for State inspection by a board of competent physicians. Notwithstanding that we have now almost provided for our present population, with the expiration of the lease at Flatbush, with our average annual increase by October, 1905, we shall again have a deficiency of nearly 3,500 beds. Immediate steps are necessary to provide for this increase. The separation of the chronic from the acute insane seems in every way to be dictated by wisdom and experience. Pavilions for the acute insane at New York, Brooklyn and other State hospitals, together with the necessary appropriation for the new building in northern New York, will call for an expenditure of $2,175,000. This sum probably will be all that will be required for the next three years. It may be well to state here that if the policy of providing emergency hospitals be adopted that the per capita cost will be nearly $1,000, so that if legislation for this purpose is had a change in existing law will be required, as the per capita authorized is now but $450. While the latter sum is all that is necessary for chronic wards, the former, which will require costly apparatus and appliances, is not too great if the results promised are secured.

There is urgent necessity for an increase in the capacity of the Custodial Asylum for Feeble-Minded at Rome, to care for the rapidly increasing population of this class of State wards. Provision should be made at the present session of the Legislature for additional buildings in order that the transfer from county to State care of idiots and degenerates may be speedily made.

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HOME FOR JUVENILE DELINQUENTS, RANDALL'S ISLAND.

The complaints made as to the management of the Home for Juvenile Delinquents has brought about two investigations, one by the management and one by the State Board of Charities. Both investigations have shown mismanagement, and both demonstrate the need of immediate action. Peculiar in its character, with but limited power exercised by the State, it seems to me that the time has arrived for a change and for the assumption of this work by the State. While it is true that the Fiscal Superintendent has power over expenditures so far as the approval of estimates is concerned, the management of this asylum is entirely under the control of a private corporation. With a board made up of busy men, it is largely in the power of its superintendent to dictate its policies. Although its support comes almost entirely from the State, its officers are without the pale of the civil service rules which govern every other State institution and its management is self perpetuating. Situated upon land which, in the event of removal or discontinuance of the asylum, must revert to the city, the State is annually called upon to contribute for betterments. Its close proximity to the greater city does not permit that healthy outdoor life which would be possible in a rural community; besides, the frequent visitations by many who should be kept away during the period which these youths are confined, is not always conducive to reformation. Experience at Rochester has demonstrated the wisdom of many of these conclusions, and to escape these evils the State has recently consummated the purchase of a large tract of ground for the removal of the Rochester Industrial School. Expense

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should not be a matter of serious consideration if results can be secured which make possible more complete reformation. The prevention of crime is more desirable than its punishment. Punishment may not be necessary if the playgrounds of the tenement population of our great cities are made attractive. Parks are as desirable as law, and sunshine brings out the best of man's nature. Therefore if the State should replace the asylum at Randalls Island with a similar State institution at some nearby point in an adjacent county, it would be of advantage both to its inmates and to those who could thereafter make use of the grounds now occupied by it for recreation. The separation of sexes in the reformatories is very desirable. Ample space is now available at Hudson and Bedford for this purpose if wisdom is exercised in separating old offenders from younger incorrigibles. This subject is recommended to your earnest consideration, in the hope that proper legislation may follow. These conditions of which complaint is made, it is fair to say, are in no way chargeable to the benevolent people who are in control of Randalls Island, but are due rather to antiquated methods which have resulted from the inexperience of the past.

AMENDMENTS TO THE ELECTION LAW.

The necessity for a still further amendment of the law controlling the primary and the general and local elections in the State has been demonstrated by recent experiences. Good government depends largely upon the freedom with which the franchise can be exercised in the nominating caucuses of parties. Interference by those who are not members of a party may predetermine nominations that are so objectionable that they do

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not meet with party support. In order therefore that the freest and fairest methods may prevail, it is necessary that that which is lacking in the present so-called Primary Law should be supplied at this session of the Legislature.

At the session of 1903 an amendment to the Primary Law was made which provided in effect that party declarations should be made only on the day of registration for general elections. This was intended to prevent transfers and so-called padding of enrollment lists. During the past year the Supreme Court of the First Department decided there was no power vested in the court to remove from the enrollment lists non-residents or illegal voters. While the right of challenge obtains, yet this method of reaching those who were not entitled to vote was not thought to be sufficient to properly guard the interests of those who were honestly entitled to participate in primaries. So far as the registry lists for all general, special and local elections are concerned, the right of review rests in the courts, and they may order stricken from the rolls the names of non-residents and others whose names remaining upon the list might prove a temptation for illegal voting. The same rule should apply to primary elections, and the deficiencies which exist in the present law should be supplied by amendment to the general law.

In the larger cities it has been deemed wise in order to more clearly fix methods for the recognition of voters that certain questions should be put to the voter upon presenting himself to the Board of Registry, the object being to provide absolute identification as well as to establish his right to participate in the election at which he seeks to vote. Among these questions is one which seeks to ascertain the last place of voting. While

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the question is put "Where did you last vote?", there is lacking the general query which this question was undoubtedly intended to form a part of, "Where and when did you last vote?" A truthful answer to this question and an insistence upon correct answers to all other queries would determine whether or not the voter was a resident within the meaning of the law as a qualified elector and as such was entitled to exercise the right of franchise. I would suggest that the law be so amended as to include this additional query, thus protecting the ballot against the possibility of fraud in this direction.

I again direct your attention to the increasing number of defective ballots cast at elections throughout the State, and the virtual disenfranchisement of many voters which thereby results. In the hands of dishonest people technicalities often are taken advantage of to destroy ballots. Some action should be taken at the present session to properly guard and to specify the requirements for a fair counting of the votes cast at elections.

STATE PRISONS.

For humanitarian reasons ample provision should be made at once for remodeling the present State prisons. That source of disease, the foul, damp and unhealthy cell should be relegated to the past. The object of punishment should be not only a deterrent one, but should aim also to reform and to send the inmates of our prisons out into the world competent to take up useful work and to become useful members of society. So many inequalities and so much injustice results under our present statutes, that it would seem desirable that a commission, to be appointed either by the Legislature or the Executive, should take up this work and give to it careful consideration,

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with the end in view of making the Penal Code and prison administration more practical than they are to-day. As an instance of these inequalities, it may be stated that a young man over eighteen years of age convicted of a felony may be sent to a reformatory, but if convicted of a misdemeanor he must be sent to prison for a definite term. If the object is punishment alone, then the law is right. If, however, it is also reformation, because probation or suspension of sentence is not always wise, then we are committing a wrong against society. The Parole Board and Children's Court, which followed a suggestion made by me, have produced beneficial results. It is quite important therefore that the beneficent influences which our charitable people are exerting in this direction should also receive encouragement from the Legislature.

If the present law which provides for electrocution is to remain in force, and there seems to be no immediate possibility of its modification, then the State should erect a central prison for condemned prisoners. This would permit a certain amount of freedom which the State owes in the way of exercise and which it is impossible to give under existing conditions. It would be well for you to give this branch of prison administration careful consideration. The Prison Department is the only department which is administered under the old system in requiring specific appropriations for a portion of each year. In other words, this department is always six months behind in its expenditures, and relies upon the Supply Bill to meet the deficiencies which thus occur. I recommended last year that an additional appropriation should be allowed and that the item which is usually placed in the Supply Bill, be omitted. This bill passed the Assembly but failed of passage in the Senate,

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which fact was not discovered until after the adjournment of the Legislature. It left the Prison Department practically without funds for nearly six months. Whatever debt has been incurred should be paid and sufficient appropriation made to carry the Prison Department up to the beginning of the next fiscal year, and thereafter the appropriations for this department should be made the same as for all others in the Annual Appropriation Bill, in sufficient amount to carry it along a full year.

LABOR DEPARTMENT.

The Labor Department has been administered in a judicious manner. The authority and power vested in the Department have been exerted whenever possible towards effecting settlement of strikes and lockouts. I understand that numerous applications will be made to the present Legislature for amendments to existing statutes affecting labor. There is too often a misunderstanding of the relations which should exist between the employer and his employee and frequently laws are enacted which are burdensome and oppressive to one or both of these great interests. In the protection of both the commonwealth is equally interested. Care should be exercised therefore by your committees and by the Legislature in the enactment of new statutes. While it is your duty to protect equally both labor and capital, neither should seek nor be afforded advantages which are detrimental to the interests of the other. The right of every man to sell his labor to the best advantage is self evident and axiomatic. The numerous disputes which have arisen have resulted in judicial interpretation of the statutes and the Constitution of the State from time to time, interpretations which have tended to define the relations which should exist between these interests. In the main these

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judicial findings have been beneficial and therefore it should not be the object of the Legislature to attempt to nullify them by amendments to the present laws. Some statutes, which have been passed with good intentions, are a positive hindrance to the enjoyment of those rights which are inherent under our form of government. The employers should be protected as well as the employees. While the Legislature should make ample provision for the protection of the workingman, it should not disregard the rights of the employer. The elimination of those conditions which produce strikes and lockouts is desirable but it is as much the duty of the State to protect individuals in the complete enjoyment of their rights as it is to protect aggregations of individuals combined for specific purposes. Stringent laws which will protect the employer against blackmailing designs are as important as the protection of the workingman in his rights. I believe the time has come when every sensible man recognizes the propriety of legislation which will accomplish these results.

STATE EMPLOYEES.

A committee of the Legislature has had under investigation the compensation of employees in the State service and the necessities for the services of those now in the State employ. While it is not my purpose to anticipate the report of this committee, or to interfere in any way with what is now a purely legislative function, I do desire to place myself on record as favoring such changes as are for the interest of the State in protecting it against such excessive salaries as have been the outgrowth more of favoritism than of necessity.

It is desirable therefore that such amendments as will make more effective the so-called Higgins Law should be enacted by the Legislature.

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STATE PRINTING.

I desire to call your attention to a custom which prevails in some of the departments of issuing bulletins which are not provided for in the Appropriation Bill. The uncertainty as to the number of such publications and their cost makes the practice objectionable from every standpoint. While I do not desire to pass upon the necessity or the desirability of such publications, yet I do believe that we should insist upon these items being provided for in the annual Appropriation Bill to the end that we may know definitely and with certainty the cost of such printing.

Recent legislation has greatly reduced the State's printing expense, and I am informed that during the present year the amount will not exceed $250,000. Prior to recent legislation on this subject this expense had run up to between three hundred and four hundred thousand dollars a year. The publication of such bulletins as I have referred to above, without being specifically provided for in the Appropriation Bills, if the practice be continued, may reach amounts never contemplated. I would suggest, therefore, that in making up the annual Appropriation Bills these items of the various departments which issue bulletins should be provided for so that the Comptroller may have full knowledge as to the extent of the printing contract and that large deficiencies for printing expense may thus be avoided.

GOOD ROADS.

Four hundred and eighty-four miles of road have been improved by State aid since the enactment of chapter 115 of the Laws of 1898. The counties have already contributed their half of the expense for building six hundred and nineteen miles for

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which plans are now ready. Petitions have been presented for the construction of 3,250 miles. The total mileage of roads in the State is 74,097. In order to form a perfect system of highways through the State it is estimated that the improvement of not more than ten per cent. of the total mileage will be necessary. In other words, in order to secure a system of good roads throughout the State, the total ultimate mileage would be about 7,500 miles. The counties have provided for their half of the expense for 1,103 miles of improved roads while the State has contributed its proportion for only 484 miles. It is estimated that $2,801,000 will be required from the State to complete this 1,103 miles.

While it has taken a number of years for this system of road improvement to grow into popular favor, it will be seen that probably within the next six or eight years all necessary roads will be under construction or will have been completed, provided funds are available which will give a perfect system of highways throughout all portions of the State. This, with the State's contributions for the repair of roads in counties which have adopted the money system, ought to give to New York a magnificent system of highways. Some changes are necessary in the good roads laws in order to protect and repair these roadways. These necessities can be met by amendment of the existing statute. While it is not contemplated that the repairs to these roads shall be the State's duty, except in so far as provided under the so-called Plank Law, yet there should be supervision by the State in order to insure the maintenance of these improved roads. With this end in view it might be proper to provide for State supervision over State roads by giving to the State Engineer and Surveyor such jurisdiction as will always secure uniform plans for repairs in all counties in the State.

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GRADE CROSSINGS.

With the improvement of the canals, with better roadways, and with greater facilities of all kinds for transportation, the resultant benefit should be of a satisfactory character. The approval of an item in the last Appropriation Bill for the change of grade crossings in the city of Schenectady brings up an important question for consideration by the Legislature. As is well known, heretofore almost all of these improvements, so far as the State has been concerned, have been restricted to the rural communities. The State has declined to aid in the construction of roadways within the boundaries of the cities. But it is the State's duty to protect the lives of its citizens, whether in the cities or rural communities. Under existing laws the State contributes twenty-five per cent., the locality twenty-five per cent. and the railroads fifty per cent. for removing crossings at grade. There have been, however, no appropriations for any single piece of work such as that approved by me for the removal of crossings at grade in the city of Schenectady. If the policy of the State is to continue along this line it would be well to define some maximum limit to which it should go, and the whole work thereafter should be under the control of the Railroad Commission, appropriations being made in accordance with their recommendations. It would be well also to prohibit by statute any future grade crossings in the State in the construction of railroads so that this expense may be guarded against in the future. It will certainly grow to alarming proportions otherwise, unless the localities have their interests in this direction sufficiently protected.

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PERSONAL TAX ASSESSMENTS.

The personal assessments of the State, according to the equalized valuations of 1902, amount to $672,149,054. Of this amount $115,412,815 are not assessed locally for State purposes; so that the total amount of personal property assessed locally for all purposes is $556,736,239. It is well known that while the assessed valuation of real estate has grown very largely each decade, that the percentage of increase of personal assessments is very small. The total personal property standing upon the assessment rolls of Greater New York amounts to $526,400,139, or about 78 per cent. of the total for the State, while its percentage of the State's real estate assessment is but 66 per cent. It would appear from this that in Greater New York personal property is assessed to a greater degree than in almost any other county of the State. Much of this assessment in New York City is occasioned by taxation upon mortgages which should not exist and which is a positive burden to many and in frequent cases takes at least fifty per cent. of the income from such property. Power should be vested somewhere for such treatment of this class of personal property in its contribution to the expenses of government as would tend to minimize this unjust proportion of payment of taxes.

INVESTIGATION OF THE LAW'S DELAYS.

The commission appointed in pursuance to my recommendation to examine into the law's delays in the greater judicial departments of the State has steadfastly pursued its investigation since its appointment and will report to you its findings. I am convinced from knowledge that has beeen imparted to me and from suggestions that have been made, that if its recom-

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mendations are enacted into law, the result will tend to make more certain immediate consideration of litigated claims and bring about a betterment of conditions in the various courts of the State.

CORPORATION LAWS.

The corporation laws enacted in 1901 show gratifying results. Prior to the passage of these laws, for the year 1900 there were but 2,329 incorporations, with a total capitalization of $306,613,355; while for the year ending September 30, 1903, there were 3,828 incorporations, with a capitalization of $424,830,500. The number of companies increasing their capital stock during this year was 572, with a total increase of $261,834,150. These figures show that the recent laws are encouraging corporations to domicile within New York.

It is suggested that the Insurance Law be so amended as to provide that cooperative insurance companies' certificates be filed in the Insurance Department, instead of in the Secretary of State's office, as this class of companies is provided for by the Insurance Laws. It is also recommended that certificates of corporations, incorporated under the Insurance Law shall be filed with the Insurance Department alone. As the law stands to-day the certificates of incorporation of such companies are not filed with the Secretary of State, but subsequent certificates of such companies are required to be. The recommendation which I have made is to avoid a duplication in the filing of certificates.

It is also suggested that the Code of Civil Procedure be amended so as to protect the name of a corporation when it is proceeding to effect a change of name under section 2111 of the Code of Civil Procedure.

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THE UNITED STATES LOAN DEPOSIT FUND.

In 1837 the United States Government distributed a certain portion of its surplus to the various States under a statute which provided for the loaning of such money to individuals. This fund is known as the United States Deposit Fund. Two Loan Commissioners are appointed in each county, whose duty it is to supervise the loaning of these monies. Under this law the State is obliged to preserve the integrity of the fund, so that if any loss occurs the State must make it good out of its own revenues, if there should not be enough interest derived from the fund available for this purpose. The result of the operation of this law has been that the interest upon it has averaged but two and two-tenths per cent., while other funds invested by the State Comptroller have an average of three and seventy-five hundredths per cent. Recent losses in various parts of the State have made it apparent that a more careful examination of property upon which loans are sought should be made before they are allowed, and that power should be lodged in some one competent head rather than distributed among loan commissioners all over the State.

I would suggest, therefore, the amendment of the existing statute so as to permit the loaning of this fund upon municipal and local bonds in order that the State may be more fully protected and a larger rate of interest secured. Of course it would not be desirable to disturb existing loans unless investigation should establish the fact that the margin between the loan and the value of the property is such as to make it imperative either that the amount should be reduced or additional security furnished. The Legislature in the year 1897 did make an amendment as suggested above, but objections were raised perhaps be-

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cause of calling in of loans, thereby imposing certain hardships, and the law was repealed at the next session of the Legislature. There was, therefore, no opportunity afforded to thoroughly test the suggestion which I now again make for the handling of this money. The State Comptroller has taken this subject up in detail in his annual report, and I would respectfully direct your attention to the suggestions and recommendations which he makes, with which I am in full accord.

DEPARTMENT OF HEALTH.

The report of the State Commissioner of Health shows that nearly 25,000 cases of typhoid fever, with a mortality of 1,635 cases, occurred in the State during 1903. Similar epidemics have occurred in other States. Inasmuch as typhoid fever is very frequently caused by polluted supplies of potable water, it is now classed as a preventable disease. The general acceptance of this view resulted in the passage of chapter 468 of the Laws of 1903, entitled "An act to amend the Public Health Law relative to the discharge of sewage and other waste matter into the waters of the State."

The proper enforcement of the various provisions of this law is vested in the State Department of Health, and upon its wise and judicious enforcement will depend the lives and health of the people in a large degree.

A complete record of the sources of public water supplies, and the possible conditions which may produce epidemics of typhoid fever or other infectious diseases, should be secured by the Health Commissioner, and I recommend that an appropriation be granted by the Legislature for this purpose.

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The bureau of vital statistics of the Department of Health is the custodian of all records of births, deaths and marriages which have occurred since the establishment of the State Board of Health in 1880.

Each one of this vast number of certificates (which is annually increased by about half a million) is a legal document, and may be required for judicially establishing property rights, the legitimacy of children, and other questions intimately affecting citizens of the State.

Enlarged quarters in the Capitol have been provided during the year for the preservation of these documents, which will suffice for many years to come. Additional facilities for filing and for permitting the inspection and preservation of these records should be provided.

HOME RULE.

The object of certain articles in the amended Constitution was to give to every locality in the State a measure of home rule which had been denied theretofore. The many interferences with the rights of cities it was thought had been sufficiently guarded against by placing within the hands of the respective mayors veto power over all acts affecting their cities. A protection in another direction was by giving to them the absolute control of all franchises in their localities without interference from the State. The State has placed within the municipalities the absolute power to prevent the disposal of valuable rights without securing adequate compensation therefor. Judicial findings have frequently set aside laws which interfered with these rights which for partisan or other purposes were sought to be secured by other than municipal control. The power

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which the State from time to time has thus placed with the cities would seem to be almost ample for absolute and positive autonomy. While the State has reserved to itself certain taxing powers, the object of which is of as much benefit to the cities as to the State, there seems to be yet misunderstanding and friction which it should be your duty to eliminate. Police power is often exercised for partisan effect. Laws of long standing on the statute books and which for political effect or other reasons have been left unrepealed, have been made agencies frequently for persecution and intolerable abuse of authority. A sentiment has grown up that the cities are not securing adequate return for their support in maintaining the State. The rural communities on the other hand resent the imputation that they are escaping their just proportion of the expense of the State's maintenance. These disagreements have been the outgrowth of a misunderstanding of the true conditions. Laws, however, were made to be enforced and no complaint can be made of an honest enforcement. It would seem natural and proper, inasmuch as it has been the policy of the State to afford home rule to municipalities, that in every respect majorities should control. That which the people of a locality demand within their own boundaries should be accorded without interference by other sections of the State, provided, however, that their action does not interfere with the rights of any or all of the people.

It might be proper for the Legislature to take up these various issues or matters of difference and attempt to formulate some plan whereby the matters complained of can be cured, and a more general fulfillment of the constitutional enactment arrived at. These questions of difference might be submitted

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to the people, and under our theory of government their conclusions and determinations would probably be satisfactory to all citizens of the State. At least there would come from such an investigation as I have suggested a realization of the duty and responsibility of each section of our commonwealth to every other. It would doubtless result in the correction of many things which are now a constant source of friction, misunderstanding and complaint.

SPECIAL LAWS.

The Legislature annually passes many bills under the guise of general acts which in effect are purely local in their character. It is not always possible to entirely eliminate this class of legislation. In prior messages I have directed the attention of the Legislature to this subject and have requested the framing of bills which would enable localities to take advantage of general statutes rather than special acts. This is particularly true of measures having to do with bond issues, the legalizing of the acts of notaries, amendments to village and city charters, and permission to go to the Court of Claims. It would seem that general statutes ought to be provided whereby some authority would be empowered to act upon these matters without the necessity of recourse to the Legislature. These statutes which are intended apparently for specific cases sometimes have very serious general effects. Legislation which had for its object the simplification and codification of our laws, would be of incalculable benefit to every citizen of the State. I commend these subjects to your thoughtful and careful consideration.

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AGRICULTURE.

It has been the policy of the State to secure and disseminate such information as might be of benefit to the farming interests of the State. Laws have been enacted and rigidly enforced for the protection of food supplies against adulteration, with the object of guarding the health of the people and of securing to the farming interests such advantages as they are entitled to. Competition with the richer lands of other States makes scientific farming to-day more necessary than ever before. A thorough understanding of our resources and the necessities of our cities is important, because it will make the farming industry more profitable and consequently of greater benefit to the commonwealth. We have now two institutions in the State which devote attention to agricultural interests, one working along on experimental scientific lines, and the other teaching the science of farming. Other commonwealths have contributed largely in support of agricultural education, and it is important that we should also make adequate provision for this necessary instruction. There have been many applications from the agricultural interests for such recognition. Without making any specific recommendations as to the line which you should follow, I do desire to impress upon you the necessity for complying with these demands, which I believe to be reasonable and in the interest of New York. The Attorney-General will call your attention to the inconsistencies of some parts of the so-called Vinegar and other laws which are administered by the Agricultural Department. Numerous mistrials and verdicts against the State have resulted from attempts to enforce them. If they are to be enforced they should be reenacted upon lines which will

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avoid the constitutional objections which have been raised successfully against prosecutions under them. I am in full accord with the recommendations which he will make to you.

STATE CENSUS.

By the terms of the Constitution, Article 3, paragraph 4, an enumeration of the inhabitants of the State is to be taken under the direction of the Secretary of State in the months of May and June, 1905. In order that all of the preliminaries may be provided for it is necessary that this Legislature should make an appropriation at the present session for this purpose.

REPORTS OF DEPARTMENTS.

The reports of the various Departments which will be submitted to you all show results which are satisfactory. They are commended to your careful consideration because a synopsis of their contents in a communication of this character would fail to do justice to them. So far as possible the same fair treatment of all Departments of the State, the same conservative action upon the part of the Legislature in dealing with them should prevail as has been our policy for so many years, bearing in mind always the pledges we have made to the people. Your action should be determined by the necessities, the benefits to be derived, and the maintenance of a government that shall in every way be responsive to the wishes of the people.

B. B. ODELL, JR.

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